

IN THE MATTER OF	:	BEFORE THE
WEIS MARKETS, INC.	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	BA Case No. 06-048C

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**DECISION AND ORDER**

The Howard County Board of Appeals (the "Board") convened on October 16, October 30, December 6, and December 18, 2007 to hear and deliberate the petition of Weis Markets, Inc., Petitioner, for a conditional use for a gasoline service station in a B-2 (Business-General) Zoning District, filed pursuant to Section 131.N.25 of the Howard County Zoning Regulations (the "Zoning Regulations").

Board members Robert Sharps, Albert Hayes, Maurice Simpkins, James Walsh, and Kevin Doyle were present for the above mentioned hearing dates. Board member Robert Sharps presided over all four hearings.

The Petitioner was represented by counsel, Sang W. Oh. Attorney Katherine L. Taylor represented Joseph Duncan, Protestant, in opposition to the petition. Protestants Judy Fisher George and Keith Madsen appeared before the Board without legal representation.

Protestant Joseph Duncan provided certifications that the notice of hearing was advertised and that the property owner and the adjoining property owners received notice of the hearing. The Board members participating in the decision indicated that they had viewed the property as required by the Zoning Regulations.

The case was conducted in accordance with Section 2.209 of the Board's Rules of Procedure. The Howard County Code, the Howard County Charter, the Howard County Zoning

Regulations, the various technical staff reports, the Department of Planning and Zoning Technical Staff Report dated March 26, 2007 recommending denial of the proposed conditional use, the Department of Planning and Zoning's internal memorandum dated May 23, 2007, which concluded that the amended plan and signage plan addressed the main concerns in their initial report and recommended that the conditional use be approved, the General Plan for Howard County, the General Plan of Highways, and the Petition and Plat submitted by the Petitioners were incorporated into the record by reference.

The following persons testified on behalf of the Petitioner: David Gill, Kevin Boyer, Robert Vogel, Mickey Cornelius, and Joseph Caloggero.

The Petitioner proffered, and the Board accepted, the following documents into evidence:

**Petitioner's Exhibits**

- |            |     |   |
|------------|-----|---|
| Exhibit #: | 1.  | Revised site plan for gas station                     |
|            | 2.  | Enlarged Site Plan                                    |
|            | 3.  | Photograph of the existing sign for Weis Market       |
|            | 4.  | Rendering of proposed modified sign                   |
|            | 5.  | Aerial map for area                                   |
|            | 6.  | Page from Phase I of the Route 1 revitalization plan  |
|            | 7.  | Page from Phase II of the Route 1 revitalization plan |
|            | 8.  | Copy of portion of ADC map for subject area           |
|            | 9A. | Accident data for Route 1                             |
|            | 9B. | Accident data for Gorman Road                         |
|            | 10. | Traffic evaluation by Mickey Cornelius                |
|            | 11. | Page 191-194 of the 2000 General Plan                 |

12. Decision and Order for BA 95-10E&V
13. Page 207 of the 2000 General Plan
14. Route 1 Corridor Revitalization Study (June 26, 2001)
15. Map of site utilizing "Auto Turn" template (prepared by The Traffic Group)
16. Former Howard County Zoning Regulations special exception criteria for Gasoline Service Stations
17. Map of Ellicott City area showing a 2-mile radius and gas stations

The following persons testified in opposition to the petition: Joe Duncan, Ed Zimmerman, Judy Fisher George, and Shep Tullier.

The opponents proffered, and the Board accepted, the following documents into evidence:

**Protestants' Exhibits**

- Exhibit #:
1. Map of seven gas stations on Route 1 in Howard County
  2. Copy of plan showing tanker truck turning radius

**FINDINGS OF FACT**

Based upon the evidence presented at the hearings, the Board makes the following Findings of Fact:

1. The subject property is located in the 6<sup>th</sup> Election District on the west side of US 1 southwest of its intersection with Gorman Road. The Property is referenced on Tax Map 47, Grid 17, Parcel 142, Lot A-4, and is also known as 9250 Washington Boulevard (the "Property").
2. The Property is zoned B-2 (Business: General).

3. The Property is an irregularly shaped, 12.24-acre parcel. The Property is the site of a Weis Market grocery store developed with Site Development Plan ("SDP") 98-33, which DPZ approved on July 21, 1998. The approved SDP required 351 parking spaces to be provided, and the SDP indicates 555 spaces were provided, including eight handicapped accessible spaces.

4. The Property is accessed from a driveway south of Weis Market and off US 1. The market is located back from US 1 toward the northwest property line. A second means of access is provided north of the market on Gorman Road, about 350 feet from US 1. A center island divides this section of Gorman Road.

5. Vicinal properties include the following:

(a) To the Property's north, across Gorman Road, is Parcel 142, Lot D, which is developed with a Wendy's Restaurant and Exxon Gasoline Service Station and convenience store approved in BA 96-54E&V on April 1, 1997.

(b) Adjacent properties to the southwest, northwest, and northeast are also part of Parcel 142. Lot A-8 is improved with a Carmax automobile sales facility and is split-zoned M-1 and B-2. The southwest portion of Lot A-4, on the opposite side of the private driveway entrance off US 1 is improved with a 3,088-square-foot Chevy Chase bank with 16 parking spaces. Lot A-3 is improved with a commercial center development, which includes a liquor store, dry cleaner, and restaurant. Lots A-9 and A-10 are improved with large office/warehouse buildings.

(c) To the east, across US 1, is Parcel 145, the approximately 11.5-acre site of Allied Trailers, a site housing containers and trailers. In the 2004 comprehensive rezoning, this site was rezoned to CE-CLI. To the east, across US 1, the properties with frontage are also generally zoned CE-CLI.

6. US 1 has two travel lanes, variable turning lanes in each direction, and a center island within a proposed 150-foot right-of-way in the Property's vicinity. The posted speed limit is 50 miles per hour. Gorman Road has two travel lanes and variable turning lanes in each direction, a center island, and a 120-foot right-of-way. The posted speed limit is 35 miles per hour. Traffic flow at the intersection of US 1 and Gorman Road is controlled by a traffic signal.

Visibility from the US 1 driveway appears to be acceptable. The visibility from Gorman Road is good with a sight distance of more than 250 feet to the southwest and 400 feet to the northwest. According to State Highway Administration data, the traffic volume on US 1 south of MD 32 was 34,950 AADT (adjusted average daily trips) as of 2005. The Howard County traffic count database indicates the traffic volume on Gorman Road west of US 1 was 14,892 ADT (average daily trips) as of November 2000.

7. The Property is served by public water and sewer.

8. The 2000 General Plan Policies Map 2000-2020 designates the Property as "Residential Redevelopment Corridor." The 2000 General Plan Transportation Map 2000-2020 depicts US 1 as an Intermediate Arterial/Transit HOV corridor and Gorman Road as a minor collector.

9. The Petitioner proposes to construct a gasoline service station conditional use on the Property in the southeast portion of the Weis Market parking lot. Access would be provided through a new cut into the driveway off US 1. No new access points are proposed to the public road system. The petition states that the proposed facility is intended to serve the market's current customers. The service station operation would be limited to dispensing gasoline, oil and pressurized air. The station proposed is a 3,407-square-foot canopy island with five bays capable of serving eight customers simultaneously, serviced by one employee, and providing 15 parking

spaces. Two 15,000-gallon underground tanks would store gasoline fuel. The canopy would be located about 56 feet from the parking lot's edge alongside US 1, and 36 feet from the interior drive aisle serving the grocery store. The petition also further proposes a 10-foot by 20-foot kiosk to the canopy's west for the sale of items such as candy, soda, and water. The hours of operation would be 6:00 a.m. to 11:00 p.m. seven days a week, the same hours of operation as Weis Market.

10. David Gill, Director of Architecture for Weis Markets, testified that most of the traffic projected to be generated by the gasoline service station would come from customers of the store. Mr. Gill stated that the goal of Weis Markets is to provide another service for its customers. The proposed station would be located in the southeast portion of the Weis Markets where excess parking currently exists. Petitioner's Exhibit # 1 submitted through Mr. Gill was an amended conditional use site plan intended to address DPZ's initial recommendation of denial of the proposed gasoline service station. The amended conditional use plan illustrated the following: additional "Type E Buffer" along US 1; a new sidewalk along the interior private road/entry off US 1; a new curb and access point off the interior private road/driveway; new landscaped islands between the new curb and access point and the main Weis Market parking area; internal traffic circulation modifications directing traffic to the Gorman Road ingress/egress via the parking lot lane paralleling US 1; and, new stacking information showing the location of vehicles at the five pumps. Petitioner's Exhibit #'s 3 & 4 show the current Weis Market sign and a proposed signage plan incorporating the gasoline service station sign into the existing Weis Market sign.

Mr. Gill stated that the underground tanks would not store diesel fuel even though the site plan notes diesel fuel storage. Lastly, Mr. Gill confirmed that gasoline product would be

delivered at off-peak hours and would only have to be delivered every two or three days.

11. Kevin Boyer, an architectural engineer, testified that at least 20 percent of the site area will be landscaped. He stated that the proposed gasoline service station had adequate frontage on a public road and that the Petitioner's proposal did not include walls or fences. Lastly, he stated that the proposal exceeded the parking requirements and also confirmed off peak hour delivery of fuel to the site.

12. Robert Vogel, an engineer, testified that the proposed gasoline service station would not adversely affect the general welfare or logical development of the area in which the station is proposed. Mr. Vogel stated that the proposed gasoline service station would not have a blighting influence as a result of a proliferation of gasoline service stations within a particular area. Mr. Vogel stated that the intent of the Zoning Regulations is to protect neighborhoods from blighting influence that can result from a proliferation of gasoline service stations in an area. Mr. Vogel stated that he agreed with DPZ's technical staff report recommendation that the relevant area to be examined for "blighting influence" was the particular area bordered on the north by Route 32 and to the south by Whiskey Bottom Road. Furthermore, based upon his experience and knowledge of the area surrounding the Property, Mr. Vogel stated that the particular area to be examined for blighting influence are the neighborhoods in Laurel and Savage which are south of Route 32. Lastly, Mr. Vogel stated that most people do not travel the entire north to south distance of US 1 from Elkridge to North Laurel.

13. Mickey Cornelius, a traffic engineer, testified that access to the proposed gas station pumps will be provided internal to the Weis Markets site through the existing parking lot and through a new curb cut along the main drive aisle extending between US 1 and the store. No new access points are proposed to the public road system. All access would be provided at the

existing access points for the Weis Markets site which includes a full access movement along Gorman Road, west of US 1 and a right-in/right-out access along southbound US 1, south of Gorman Road.

Mr. Cornelius stated that most of the traffic projected to be generated by the gasoline service would come from patrons of the store. The information provided by Weis Markets indicates a projected maximum of 400 transactions per day at the gasoline pumps with more than half of these transactions coming from patrons at the store. Therefore, Mr. Cornelius stated that less than 200 vehicles per day would be new traffic to and from the site.

Using a worst case scenario and assuming 200 new vehicles entering and exiting the site on a daily basis, a maximum of 20 new peak hour trips would be generated to and from the site. Much of this traffic would be drawn from the adjacent travel stream and very few vehicles would be new to the surrounding area road system according to Mr. Cornelius.

Mr. Cornelius stated that with an additional 20 vehicles entering and exiting the site during the peak hour, it would be expected that the majority of these vehicles would be drawn from southbound US 1 making a right turn into the existing access and subsequently into the gas station service area and then would exit the site via the existing right out. These trips would provide no conflicts to other traffic movements. With the majority of the trips using the US 1 access, it would be expected that during peak hours, no more than five additional trips would be generated into and out of the Gorman Road access. These few additional trips would not impact traffic operations at that location.

Mr. Cornelius reviewed the access points to determine whether ingress and egress is designed to achieve maximum safety. As previously indicated, the gasoline service would not result in any new access to points to the public road system. Accident data was reviewed for the



existing access points along Gorman Road and US 1 for the Weis Markets Retail Center. Based upon accident data available for the most recent three years (2003 to 2005) there have been no reported accidents at either the US 1 or Gorman Road access points. With the projected minor increase in traffic, there would be no reason to expect that the safety of these access points would be affected.

Lastly, Mr. Cornelius opined that the gasoline service use could be adequately and safely accommodated by the surrounding area road system. The minor increase in traffic that would be generated to and from the Weis markets site can be safely accommodated by the existing access points.

14. Joe Duncan testified that he owns an Exxon gasoline service station and convenience store located to the north of the subject property across Gorman Road. Mr. Duncan stated that he is opposed to the proposed gas station being constructed. Mr. Duncan feels that if this gasoline service station is approved, that his business could be negatively affected.

15. Ed Zimmerman, a site acquisition specialist, testified that an additional gasoline service station would be detrimental to existing gasoline stations because the gas pumped by the new station would take away from sales from another station. Mr. Zimmerman stated that there are seven gas stations on US 1 which are located along a linear 4-mile stretch of US 1. Mr. Zimmerman stated that the appropriate area for reviewing the effect that one station may have on another gas station is a 3-mile radius and that within the 3-mile radius of the proposed station there are already 25 stations. Mr. Zimmerman stated that the parking lot is too small to allow a tanker truck to safely unload gasoline fuel at the proposed site.

16. Judy Fisher George, a resident of Bowling Brook Farm, stated her concerns that the proposed gas station would bring additional traffic to the area and that she felt that the last thing this area needs is another gas station.

17. Shep Tullier, a land planner and consultant, testified that US 1 is a traffic corridor and a destination for travelers wishing to purchase gasoline. Mr. Tullier stated that the General Plan's policies are not being met by adding yet another gas station to an area already over served by the existing stations. Mr. Tullier stated that because this proposed station would be immediately adjacent to US 1, as opposed to being set back from the road in a location not readily observable from US 1, that the overall design goals of the Route 1 study are thwarted. Mr. Tullier felt that this proposed gasoline station would take customers away from other existing stations and the potential exists that one of the other stations would go out of business due to the proliferation of stations on US 1. Mr. Tullier testified that the proposed gas station would have less adverse impact if it were located at the rear of the Weis Market in the area designated on the conditional use plan as "future pad site." At this location he said that there is ample room for the gas station and there would be less conflicts with existing parking as well as additional room for tanker trucks to deliver fuel. Mr. Tullier also stated that the proximity of the parking spaces to the gasoline pumps at the proposed station would create a traffic safety issue.

18. Keith Madsen, an owner of a Hess gasoline service station in Elkridge, stated that a new gasoline service station could take away business from other existing stations. Mr. Madsen also stated that he felt that the Petitioner would not be able to control the timing of fuel deliveries to the site.

19. Joseph Caloggero, an engineer, testified that the "primary route" for a fuel tanker delivery truck would be from south-bound US 1 into the private driveway. On the site, the

tanker delivery truck would reverse approximately 150 feet to unload fuel and then exit the Property through to Gorman Road. (see Petitioner's Exhibit #15). Mr. Caloggero stated that the "primary route" for fuel delivery was not ideal but that this movement was indeed safe. Mr. Caloggero also noted that a delivery truck would be traveling at a very low rate a speed when making the reverse movement and that noise and lights would accompany the truck's movement.

20. Robert Vogel testified in rebuttal that there were numerous other gas stations throughout the county in which fuel tanker trucks were required to perform odd or irregular movements in order to deliver fuel to a site. Mr. Vogel stated that the "primary route" for fuel delivery by a tanker truck would be safe.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board concludes as follows:

#### **I. General Criteria for Special Exceptions (Section 131.B).**

A. Harmony with the General Plan: Section 131.B.1 of the Zoning Regulations requires that a conditional use plan will be in harmony with the land uses and policies indicated in the General Plan for the district in which it is located. The B-2 District is established to provide for commercial sales and services that directly serve the general public. (Zoning Regulations Section 119.A) The Opposition argues that in order for the conditional use plan to be in "harmony" with the General Plan, it must be in "compliance" with the General Plan – indeed, the Opposition contends that the conditional use must be denied if it is "or may be" contrary to the land uses and policies set forth in the General Plan. This is not the standard the courts have adopted for measuring a conditional use plan's harmony with a general plan. The Maryland Court of Special Appeals has said that the term "in harmony with" is not synonymous with "in conformity with," "consistent with," or "in compliance with." Rather, "in harmony

with” is a more flexible standard which requires the hearing authority to determine whether a particular use would be “so inimical or injurious to the announced objectives and goals of the comprehensive development plan so as not to be able to co-exist with the plan’s recommendations.” Richmarr Holly Hills, Inc. v. American PCS, L.P., 117 Md. App. 607, 656, 701 A.2d 879, 903 (1997). Indeed, the proposed use would have to frustrate or preempt achievement of the plan’s recommendation before a finding of non-harmony would be justifiable. This approach is consistent with the legal nature of a conditional use, which is presumed to be valid and correct absent any fact or circumstance negating the presumption. *Id.*

The Howard County 2000 General Plan Policies Map designates the area in which the Property is located as a “Residential Redevelopment Corridor.” The design of the facility will be limited to the sale of gasoline, oil and pressurized air situated on the west side of US 1, an intermediate arterial/transit HOV corridor southwest of its intersection with Gorman Road, a minor collector. This facility would be located within an existing commercial area and will be consistent with the General Plan Chapter 5, Community Conservation and Enhancement recommendation that commercial strip development areas on major roads not be extended beyond their present limits. The DPZ staff report recognizes that the B-2 zoned Property is not subject to the new zoning classifications specific to the US 1 corridor (CE, CAC, or TOD) and is not subject to the Route 1 Manual, which sets forth US 1 design requirements and recommendations for the new zoning. The Board concludes, however, by incorporating additional landscaping along US 1 and a new sidewalk along the interior private road/entry off US 1, the proposed use will contribute to the manual’s design objectives. Accordingly, the nature and intensity of operation, the size of the Property to the use, and the location of the Property with respect to access streets, are such that the uses will be in harmony with the land

uses and policies indicated in the General Plan for the district, in accordance with Section 131.B.1.a.

The proposed use will comply with all setback requirements. It will occupy a portion of the 12.24-acre Property, the site of a Weis Market and a Chevy Chase Bank. The total parking required for the market, bank and proposed gasoline service station is 297 spaces and 12 accessible spaces, and 514 spaces and 19 accessible spaces are provided. The pump island locations will be separated from adjacent properties and uses. The proposed use will be buffered from the existing use by landscaping along US 1 and by a landscaped interior driveway and landscaped islands. Consequently, the proposed use is an appropriate intensification of use and scale, given the adequacy of the existing and proposed buffers and setbacks, in accordance with Section 131.b.1.b.

B. Adverse Effect: The Petitioners have met their burden in presenting sufficient evidence establishing that this proposed use will not have adverse effects on vicinal properties above and beyond those ordinarily associated with a gasoline service station in the B-2 district.

1. Physical Conditions. The proposed use will consist of the typical effects associated with a gasoline service station including traffic, noise, light and odors. The size of the site and the building are not atypical for such a facility. The vicinal properties are businesses and area traffic is both automotive and truck. Thus, any noise or odors that the proposed use would generate would be similar to those of existing uses and vicinal properties, there being no vicinal residential uses. Because the gasoline service station is primarily intended to serve market customers and travelers along US 1, the additional traffic is anticipated to be modest. The proposed gasoline service station will not generate inordinate noise or other effects and it will be buffered by landscaping. Any noise, odor, or light generated by the uses will be attenuated by

distance and will not be greater than those ordinarily associated with such uses. The uses will therefore not generate excessive noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions beyond those inherently associated with a gasoline service station in a B-2 zoning district, in accordance with Section 131.B.2.a.

2. Structures. The proposed use will be located in the southeast portion of the Property and landscaped along three perimeters. The structures proposed in conjunction with the use comply with all required setbacks. The businesses surrounding the proposed use are primarily commercial and industrial in nature and there are no nearby residential districts. As such, the nature of the proposed use and the nature and extent of the landscaping will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally elsewhere in the zone or other applicable zones, in compliance with Section 131.B.2.b of the Zoning Regulations.

3. Parking and Drives. The proposed parking spaces on the Site exceed the minimum number of spaces required by the Zoning Regulations. The parking areas will be of adequate size for the particular use and they will be properly located and screened from public roads to minimize adverse impacts on adjacent properties as required by Section 131.B.2.c.

4. Safe Access. The locations of the previously approved ingress and egress drives would remain unchanged. A new private driveway off US 1 and the cut into the ingress driveway to provide shorter access to the gasoline service station will provide safe access with adequate sight distance. The driveway cut will also allow gasoline delivery tankers to enter via the cut and drive around the canopy and back-up approximately 150 feet to deliver gasoline to the underground tanks. The internal traffic circulation modifications will also allow vehicles entering or exiting from Gorman Road to traverse the market parking lot safely. Motorists

accessing the Property from US 1/Gorman Road stack along the center island until they can make a safe left turn into the Property. Vehicles traveling from the opposite direction can safely turn into the entrance. The driveways giving access to the site will therefore provide safe access with adequate sight distance, as required by Section 131.B.2.d.

**II. Specific Criteria for Gasoline Service Stations (Section 131.N.25).**

A. The area along US 1 where the gasoline service station is proposed includes a bank, automobile dealership, fast food restaurant, and office warehouses. Across Gorman Road is a Wendy's restaurant, a convenience store and Exxon service station containing five, two-sided gasoline pumps for a total of 10 fueling spaces. To the east is a site housing trailers. Given the existence of compatible uses in the area, the use will not adversely affect the general welfare or logical development of the neighborhood. Furthermore, the Board concludes that the proposed gasoline service station will not have a blighting influence as a result of a proliferation of gasoline service stations within a particular area, in accordance with Section 131.N.25.a. In coming to this conclusion, the Board agrees with DPZ's technical staff report that indicates that other than the Exxon gasoline service station at Gorman Road, there are no other gasoline service stations to the north between the site and MD 32, and that there is only one gasoline service station on the northbound side of US 1 between the site and Whiskey Bottom Road to the south. The Board also finds Robert Vogel's testimony persuasive in that the area to be examined for blighting influence are the neighborhoods in Laurel and Savage which are both south of MD 32. The addition of a third gasoline service station within an area bordered to the north by MD 32 and to the south by Whiskey Bottom Road and located in a commercially developed area will not have a blighting influence as a result of a proliferation of gasoline service stations within this particular area. The Board finds the opposition's contention that the addition of another gasoline

service station along US 1 will increase competition and may lead to a blighting effect because now some other gasoline service station may close and become abandoned as speculative and further notes that under the current Zoning Regulations, that public need requirement for a gasoline service station is no longer a criterion for the approval of a gasoline service station.

B. The Site is approximately 12.24 acres in area, which exceeds the minimum lot size of 20,000 square feet required by Section 131.N.25.b.

C. The Site has 700 feet of frontage on US 1. It therefore exceeds the minimum frontage of 120 feet required by Section 131.N.25.c.

D. At least 20 percent of the Site will be landscaped as required by Section 131.N.25.d. The proposed "Type E" perimeter landscaping will enhance the appearance of the Site from public roads and provide appropriate buffering for adjacent uses.

E. The Site does not border a residential district; therefore, Section 131.N.25.e does not apply.

F. No refuse area or vehicle repair operation is proposed, therefore, Section 131.N.25.f. does not apply.

G. The access driveways and on-site paved areas of the Site will be designed and located to ensure safe and efficient movement of traffic and pedestrians, as required by Section 131.N.25.g.

H. Operation:

1. Outside operations will be limited to the dispensing of gasoline, oil, water, and pressurized air, in accordance with Section 131.N.25.h.(1). No servicing is proposed.

2. No vending machines or the sale of propane is proposed, therefore, Section 131.N.25.h.(2) does not apply.



3. The Petitioner will maintain the premises at all times in a clean and orderly condition including the care and replacement of plant materials required in the landscaping plan, as required by Section 131.N.25.h.(3).

4. The Site is not adjacent to a residential district; therefore, Section 131.N.25.h.(4) does not apply.

I. Other Uses:

1. No convenience store or car wash is proposed. Section 131.N.25.i.(1) does not apply.

2. The Site is not located in a PEC, M-1 or M-2 zone; therefore, Section 131.N.25.i.(2) does not apply.

J. Abandonment: The Petitioner will comply with the following provisions concerning abandonment set out in Section 131.N.25.j.

1. The premises (including landscaping) of any gasoline service station which is not in continuous operation or is abandoned shall be maintained in the same manner as is required under these regulations for operating gasoline service stations.

2. A conditional use for a gasoline service station shall become void upon notice of abandonment by the owner. If notice of abandonment is not received, but it is determined by the Department of Planning and Zoning that a gasoline service station has not been in continuous operation for a period of twelve months, a revocation hearing shall be initiated by the Department of Planning and Zoning in accordance with the procedures set forth in Section 131.L. For purposes of this subsection, "continuous operation" shall mean operation as a gasoline service station at least eight hours per day, five days per week.

3. If a gasoline service station is abandoned and the conditional use becomes void as provided above, all gasoline pumps, pump island canopies and other improvements (not including buildings) shall be removed from the site within six months of the date the conditional use becomes void.

**ORDER**

Based upon the foregoing, it is this 24<sup>th</sup> day of April, 2008, by the Howard County Board of Appeals, **ORDERED**:

That the Petition of Weis Markets, Inc., Petitioner, for a conditional use for a gasoline service station in a B-2 (Business-General) Zoning District is hereby **GRANTED**, subject to the following conditions:

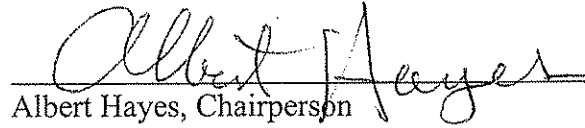
1. The conditional use shall apply only to the proposed gasoline service station as described in the petition and conditional use plan submitted on October 16, 2007 to the Board as Petitioner's Exhibit # 1, and not to any other activities, uses, or structures on the subject property.
2. The Petitioner shall comply with all applicable Federal, State, and County laws and regulations.

ATTEST:

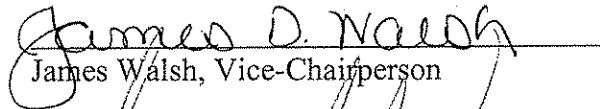


Ann Nicholson, Secretary

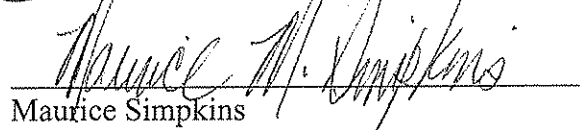
HOWARD COUNTY BOARD OF APPEALS



Albert Hayes, Chairperson



James Walsh, Vice-Chairperson



Maurice Simpkins



Dissent

Kevin Doyle

PREPARED BY:  
HOWARD COUNTY OFFICE OF LAW  
MARGARET ANN NOLAN  
COUNTY SOLICITOR



Barry M. Sanders  
Assistant County Solicitor

Did not participate  
Michelle James\*

\* Michelle James was appointed to the Board of Appeals on January 1, 2007, as a successor to Robert Sharps. Michelle James did not participate in the hearing and deliberation of this petition.